

Appln No. 10/801,479
Amdt date December 22, 2004
Reply to Office action of June 25, 2004

REMARKS/ARGUMENTS

Applicants address each point raised in the June 25, 2004 Office action as follows:

Objection To Specification

The Examiner noted that the trademark VELCRO was used in the specification but was not capitalized or accompanied by generic terminology. As reflected above, Applicants have amended the specification to capitalize the trademark and to include generic terminology for VELCRO, thereby obviating the objection. Applicant notes that no new matter has been added by the above-described amendment.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-10 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Noble et al. (U.S. Pat. No. 5,755,611). As reflected above, Applicants have amended independent claims 1 and 5 to overcome these rejections.

Specifically, independent claims 1 and 5, as amended, recite the following limitations: "wherein the bra cups have an interior surface adapted for placement over the user's breasts and a pressure sensitive adhesive layer disposed along the interior surface, wherein a thermoplastic film material supports the pressure sensitive adhesive layer." The Noble et al. patent does not disclose, among other things, the limitation that "a thermoplastic film material supports the pressure sensitive adhesive layer." Further, Applicants note that this limitation was originally presented in dependent claims 3 and 9, which have now been cancelled.

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In support of the rejections under Section 102(b), the Examiner stated, "Noble et al discloses a thermoplastic film 39 supporting the pressure sensitive adhesive layer (See Noble et al, col. 4, lines 24-26)." (Office action at pages 2-3). Applicants respectfully disagree. The disclosure in the Noble et al. patent concerning the "thermoplastic film 39" merely relates to: "The soft foam quality LD #24 (forming both the breast cup portion 22 and the flattened peripheral flange 24) and the covering material 38 are laminated with a stretch adhesive film 39 which improves the spread and total adhesion of the covering material 38 during lamination." (Noble et al. at column 4, lines 10-15) (emphasis added). The portion of this paragraph relied on by the Examiner, namely lines 24-26, also relates to "a special adhesive film 39" that is used to bond the materials that form the Noble et al. bra cup. The "adhesive film 39" disclosed in Noble et al. does not support the pressure sensitive adhesive layers that are used to adjoin the bra cups to the user's breasts.

Furthermore, there is no disclosure, teaching, or suggestion in Noble et al. for "a thermoplastic film material supports the pressure sensitive adhesive layer." Accordingly, Applicants' amended claims 1 and 5 are allowable over Noble et al. Similarly, pending claims 2, 4, 6-8, and 10, which depend from claims 1 or 5, are also allowable over Noble et al.

Therefore, Applicants respectfully submit that pending claims 1-2, 4-8, and 10 are in condition for allowance.

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Rejections Based On Nonstatutory Double Patenting

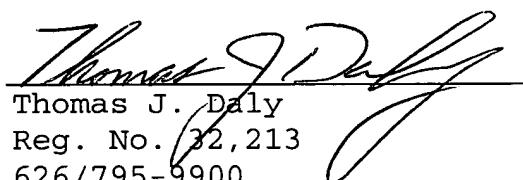
Claims 1-10 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-7 of U.S. Patent No. 6,758,720 (Application No. 10/159,251, allowed claims 30-36), the allowed claims of Application No. 10/21110 (which has issued as U.S. Pat. No. 6,780,081), and the claims of Application No. 10/801,901 (which have been allowed and for which the issue fee has been paid).

To obviate these rejections, Applicants are submitting concurrently herewith an appropriate terminal disclaimer.

Conclusion

For the foregoing reasons, Applicants respectfully submit that pending claims 1-2, 4-8, and 10 are in condition for allowance and, accordingly, a timely indication thereof is respectfully requested.

Respectfully submitted,
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